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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,049	11/12/2001	Thomas Miebach	RD-29,460-1	7046

6147 7590 08/14/2006

GENERAL ELECTRIC COMPANY  
GLOBAL RESEARCH  
PATENT DOCKET RM. BLDG. K1-4A59  
NISKAYUNA, NY 12309

EXAMINER
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SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/015,049

Applicant(s)

MIEBACH ET AL.

Examiner

Kriellion A. Sanders

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-29, 34-42, 45-47, 50-57, 59-78, 83-91 and 94-96 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-29, 34-42, 45-47, 50-57, 59-78, 83-91 and 94-96 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

The rejection under 35 U.S.C. 102 is withdrawn.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8, 10-29-34-42, 45-47, 50-57, 59-78, 83-91, and 94-96 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Watanabe et al, US Patent No. 5,266,618.

1. This rejection is repeated for reasons of record. Watanabe et al (hereinafter Watanabe) discloses flame retardant polycarbonate compositions comprising a polycarbonate resin, 0.01 to 5.0 parts by weight of a polyorganosiloxane polymer, 0.1 to 40 parts by weight of a phosphorus compound, 0.001 to 40 parts by weight of a boron compound and 0.001 to 5.0 parts by weight of a fluoropolymer as an antidrip agent. The phosphorus component may be inorganic red phosphorus. The compositions may also include a second thermoplastic resin that is not a polycarbonate resin. Polytetrafluoroethylene is well known in the art as an anti-drip agent. See col. 2, lines 50-53. The components of Watanabe et al correspond directly to the components of the present claims. The components are employed at amounts that directly overlap the weight

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ratio of component of applicant's claims. No patentable difference is readily ascertained. See col. 5, line 1 through col. 6, line 63 and claims 1-8.

2. Watanabe indicates hat a graft copolymer may be included. See col. 2, line 50 through col. 4, line 63 for a description of the resins that may be used in the patented invention. This graft copolymer may be a rigid thermoplastic grafted to an elastomer. See col. 3, lines 55-61. The non-polycarbonate copolymer may also be a styrene acrylonitrile copolymer. See col. 4, lines 2-18. The compositions, when formulated, are passed through an extruder and pellitized. See col. 7, lines 17-23. Watanabe et al further indicates that additional additives may be included in the compositions, such as lubricants. See col. 7, lines 2-9. The incorporation of any of the additional resins suggested by Watanabe et al or of a conventional polyfunctional alcohol lubricant such as pentaerythritol into the compositions of the Watanabe patent would have been obvious to one of ordinary skill in the art at the time of applicant's invention, absent a clear showing of unexpected results attributable to such a variation. The additional non-polycarbonate resins of Watanabe et al, being the same as applicants, are expected to possess the same glass transition temperatures as the resins of applicant's invention.

### ***Response to Arguments***

2. Applicant's arguments filed 6/01/06 have been fully considered but they are not persuasive. Applicant argues that Watanabe does not discloses compositions having a boron source within the range of 0.2 to 5 wt percent of the entire composition as required by the present claims. Applicant's attention is directed to claim 1 of Watanabe wherein the boron source may be present in an amount of 0.001 to 40 pbw of the composition. The claimed amount of boron component would overlap the amount of boron source required by applicant's claims,

3. Applicant argues that Watanabe does not suggest a composition that is devoid of an organic phosphorus containing flame retardant. This argument is not persuasive because the organic phosphorus flame retardant included in the Watanabe compositions is utilized to increase the flame-retardancy of the composition. It is common knowledge that the omission of a component and its concurrent function is not invention. Therefore, applicant must show that by omitting the organic flame retardant of Watanabe, he is achieving comparable flame retarding properties. It is noted that in applicant's Table 6 of the specification, working examples 31 and 36-38 include an organic phosphate BPADP. The flame out times for these examples containing the organic phosphate are significantly lower than for those compositions of examples 32-35 which do not contain an organic phosphate. In response to applicant's arguments, the test for obviousness is not whether the claimed invention is expressly suggested in the references. Rather, the test is what the teaching of the reference would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 703-308-2435. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.



Kriellion A. Sanders  
Primary Examiner  
Art Unit 1714

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August 8, 2006